

Exhibit H

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[1]
[2] UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
[3]
[4] VIOLA PLUMMER,
[5] Plaintiff, Civil Action No.
[6] -against- 07 CV 6154(WHP)
[7] CHRISTINE QUINN,
[8] Speaker of the City Council,
[9] Defendant.
[10]
[11] August 15, 2007
10:32 a.m.
[12]
[13]
[14] Deposition of CARL D'ALBA, taken
[15] pursuant to Notice held at the Offices of
[16] the Corporation Counsel, 100 Church Street,
[17] New York, New York, before Vicky Galitsis, a
[18] Certified Shorthand Reporter and Notary
[19] Public of the State of New York.
[20]
[21]
[22]
[23]
[24] GREENHOUSE REPORTING, INC.
363 Seventh Avenue - 20th Floor
New York, New York 10001
[25] (212) 279-5108

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[1]
[2] APPEARANCES:
[3] ROGER S. WAREHAM, ESQ.
[4] Attorney for the Plaintiff
[5] 394 Putnam Avenue
[6] Brooklyn, New York 11216
[7]
[8]
[9]
[10] NEW YORK CITY LAW DEPARTMENT
[11] OFFICE OF THE CORPORATION COUNSEL
[12] Attorneys for the Defendant
[13] 100 Church Street
[14] New York, New York 10007
[15] BY: PAUL MARKS, ESQ.,
[16] of Counsel
[17]
[18]
[19] ALSO PRESENT:
[20] Alvin Bragg, City Council
[21]
[22]
[23]
[24]
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[1]
[2] IT IS HEREBY STIPULATED AND AGREED,
[3] by and between the attorneys for the
[4] respective parties hereto, that all
[5] objections, except as to form, shall be
[6] reserved to the time of trial.
[7] IT IS FURTHER STIPULATED AND AGREED
[8] that the sealing and filing of the within
[9] deposition are hereby waived.
[10] IT IS FURTHER STIPULATED AND AGREED
[11] that the within deposition may be
[12] subscribed and sworn to by the witness
[13] being examined before a Notary Public
[14] other than the Notary Public before whom
[15] this deposition was begun.
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[1] **C. D'Alba**
[2] CARL D 'ALBA,
[3] stating an address of 250 Broadway,
[4] New York, New York 10007, having been
[5] first duly sworn by a Notary Public
[6] of the State of New York, was
[7] examined and testified further as
[8] follows:
[9] **EXAMINATION BY MR. WAREHAM:**
[10] **Q:** Good morning, Mr. D'Alba. My
[11] name is Roger Wareham. I represent
[12] Mrs. Plummer in this action?
[13] **A:** Good morning.
[14] **Q:** I will just go through some
[15] preliminary steps.
[16] Have you ever been deposed
[17] before?
[18] **A:** Yes, sir.
[19] **Q:** So you're familiar that you're
[20] under oath, you have to answer orally so that
[21] the reporter can put down your answer. If you
[22] don't understand anything I ask you, whether
[23] it's in form or content, just ask me and I
[24] will try to rephrase it.
[25] Have you taken any medications or

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[1] C. D'Alba
[2] anything that would impair your ability to
[3] answer clearly today?
[4] A: No, I haven't.
[5] Q: What is your position with the
[6] city council?
[7] A: I am the director of security for
[8] the New York City Council.
[9] Q: How long have you been the
[10] director of security?
[1] A: Approximately a little over a
[2] year.
[3] Q: What did you do prior to that?
[4] A: I was a New York City detective.
[5] Q: How long were you a New York City
[6] detective?
[7] A: 21 years.
[8] Q: And you are retired now?
[9] A: Yes, sir, I am.
[20] Q: Do you receive a pension from New
[21] York City?
[22] A: Currently no, sir.
[23] Q: What does your job as director of
[4] security entail?
[25] A: The job entails security for all

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[1] C. D'Alba
[2] 51 council members, the offices at 250
[3] Broadway, 51 district offices for all the
[4] council members, the chambers at City Hall as
[5] well as the Speaker's office. Primarily the
[6] right side of City Hall.
[7] Q: Let me just go back a second.
[8] When you were with the NYPD what was your
[9] highest classification?
[10] A: First Detective, First Grade.
[11] Q: At stated meetings of the City
[12] Council who gives you directions in terms of
[13] any security matters or does anyone does give
[14] you directions in terms of security matters at
[15] stated meetings?
[16] A: It depends on what we're talking
[17] about. I am the director, and usually I give
[18] the orders. If there is something that I'm
[19] not clear about, then I'll ask for help.
[20] Q: Who would you ask for help?
[21] A: Primarily I would go to Chuck
[22] Mayer, the chief staff.
[23] Q: Are you familiar with the rules
[24] of the City Council on the issue of
[25] maintaining order in the stated meetings?

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[1] C. D'Alba
[2] A: Yes, sir, I am.
[3] Q: Who has responsibility for
[4] maintaining order at the stated meetings?
[5] A: The Sergeant-at-Arms have the
[6] responsibilities for maintaining the decorum
[7] of all hearings, stated council meetings.
[8] Q: Does the Sergeant-at-Arms have to
[9] take direction from anyone in that regard or
[10] can the Sergeant-at-Arms work on his or her
[11] own prerogative?
[12] A: To a degree.
[13] Q: Which elected official has the
[14] responsibility for maintaining order and
[15] decorum at the stated meetings, do you know?
[16] A: Yes, sir.
[17] Q: Who is that?
[18] A: It would be the Public Advocate
[19] as well as the Speaker of the City Council.
[20] Q: Do they have co-equal
[21] responsibility?
[22] A: I'm not sure of that.
[23] Q: Let me show you what has been
[24] marked Plaintiff's Exhibit 2, which is the
[25] Rules of the City Council. It's previously

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[1] C. D'Alba
[2] marked and I refer your attention to section
[3] 3.10?
[4] A: Okay.
[5] Q: Who is considered the presiding
[6] officer at the stated council meetings?
[7] A: That would be the Public
[8] Advocate.
[9] Q: And according to the rules, the
[10] person whose responsibility it is to preserve
[11] order and decorum, is it the Public Advocate
[12] at the Stated Meeting?
[13] A: According to 3.10?
[14] Q: Yes.
[15] A: It says the presiding officer and
[16] that would be the Public Advocate. She would
[17] be the presiding officer.
[18] Q: But you're saying that the
[19] speaker retains a responsibility to maintain
[20] order and decorum even if she's not the
[21] presiding officer at a particular meeting?
[22] A: Yes, she also is responsible for
[23] order.
[24] Q: If the Public Advocate or the
[25] presiding officer ascertains that there is a

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C. D'Alba

[1] need to maintain order and decorum they will
[2] direct you to do that or they'll direct Chuck
[3] Mayer, I mean, what's the process? How does
[4] that happen?

[5] **A:** You're asking me about the Public
[6] Advocate.

[7] **Q:** The Public Advocate, when the
[8] Public Advocate is the presiding officer at a
[9] Stated Meeting. If there is an occasion where
[10] the Public Advocate sees the need to preserve
[11] order and decorum, how will she communicate
[12] that?

[13] **A:** She will communicate that to me.

[14] **Q:** Directly?

[15] **A:** Yes.

[16] **Q:** Are you aware that there was a
[17] Stated Meeting of the council on May 30th,
[18] 2007?

[19] **A:** Yes. Do I need this?

[20] **Q:** No, you have to commit it to
[21] memory.

[22] Prior to that meeting was there a
[23] meeting with the Public Advocate in terms of
[24] preparation for the Stated Meeting on
[25]

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C. D'Alba

[1] May 30th?

[2] **A:** Yes, sir.

[3] **Q:** Did you attend that meeting?

[4] **A:** Yes.

[5] **Q:** Do you remember who else was
[6] there?

[7] **A:** Well, I can tell you this. There
[8] were several meetings that day that kind of
[9] like melted together. But at that particular
[10] meeting I believe it was myself, the Public
[11] Advocate, the Speaker, Chuck may have been
[12] there. And I'm not clear as to — I mean, he
[13] was there throughout the day, in and out of
[14] meetings. We had a lot of meetings that day.

[15] **Q:** At that meeting were the Public
[16] Advocate and the Speaker, was there any
[17] discussion concerning security or concerns for
[18] that Stated Meeting that was coming up that
[19] afternoon?

[20] **A:** Yes, sir.

[21] **Q:** What were they?

[22] **A:** The concern of the Speaker
[23] primarily was to let everybody's voice be
[24] heard. And she wanted — she made it clear
[25]

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C. D'Alba

[1] that she wanted — she didn't want to have
[2] anybody removed. She wanted, if there was
[3] somebody going — if somebody was going to
[4] voice their opinion, let them voice their
[5] opinion, give them a reasonable amount of time
[6] before trying to maintain order again. And
[7] she was very clear as to the fact that she
[8] wanted all sides to be heard, and she wanted
[9] everything to be peaceful, and as much as
[10] possible she wouldn't have anybody removed.

[11] **Q:** What, if anything, was the
[12] response of the Public Advocate to the
[13] Speaker's position on that?

[14] **A:** To my knowledge she agreed.

[15] **Q:** You said there were several
[16] meetings that morning?

[17] **A:** Yes.

[18] **Q:** In preparation for that meeting?

[19] **A:** Yes — well, in preparation for
[20] that meeting?

[21] **Q:** Yes.

[22] **A:** Not in preparation for that
[23] meeting, no.

[24] **Q:** What were the security measures
[25]

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C. D'Alba

[1] taken for the meeting on May 30th, 2007?

[2] **A:** Well, I had all of my men there,
[3] and when I say my men, all of my
[4] Sergeant-at-Arms.

[5] **Q:** How many Sergeant-at-Arms?

[6] **A:** I'd say at least eight men there,
[7] I don't know the exact number. But everybody
[8] that was on hand, it could have been more, I
[9] had there for that particular meeting.

[10] **Q:** Do you normally have that amount
[11] of people there for a Stated Meeting?

[12] **A:** No.

[13] **Q:** How many do you normally have?

[14] **A:** We have about six.

[15] **Q:** Why did you see the need to have
[16] more people there?

[17] **A:** We anticipated the public in the
[18] balcony to be boisterous, and we anticipated
[19] people yelling and screaming, so we wanted to
[20] be prepared for that.

[21] **Q:** And what steps, what role did the
[22] New York City Police Department play in terms
[23] of the security that day?

[24] **A:** Well normally in NYPD will
[25]

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C. D'Alba

[1] **C. D'Alba**
[2] provide a uniformed officer, one or two for
[3] the meeting. We requested that there would be
[4] additional officers just in case. I should
[5] actually say, I requested that and they also
[6] agreed. How many officer they had, I don't
[7] know.
[8] **Q:** Were there officers on the floor
[9] or in the balcony or both?
[10] **A:** We're talking NYPD?
[11] **Q:** NYPD.
[12] **A:** To the best of my recollection,
[13] we had officers on the main floor as well as
[14] the balcony.
[15] **Q:** In the event of a disturbance who
[16] gives directions to the New York City Police
[17] Department Officers that are in the building?
[18] **A:** Well, it's worked out between
[19] myself and Lieutenant Brennan.
[20] **Q:** And Lieutenant Brennan is?
[21] **A:** He is in charge of the security
[22] NYPD portion, uniformed detail for City Hall.
[23] **Q:** When you worked for the NYPD were
[24] you ever assigned to City Hall?
[25] **A:** In what capacity?

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C. D'Alba

[1] **C. D'Alba**
[2] **Q:** For the City Hall detail?
[3] **A:** No.
[4] **Q:** If the Public Advocate, during a
[5] Stated Meeting, if the Public Advocate sees a
[6] need to clear the room she will direct that
[7] request to you?
[8] **A:** Or the Sergeant-at-Arms, which
[9] will be Elias Cabrera or any of the
[10] Sergeant-at-Arms that are uniformed. It
[11] doesn't have to be specifically go to me.
[12] Whoever is — basically whoever is near the
[13] disturbance, she will order that particular
[14] Sergeant-at-Arms to remove that person or to
[15] have them quiet down. She'll also bang the
[16] gavel.
[17] **Q:** If the speaker, even though she
[18] was not presiding in meetings, saw the need to
[19] clear the room, could she direct that to you
[20] or would she direct it to the Public Advocate?
[21] **A:** She would let me know and then
[22] she would forward a message to the Public
[23] Advocate.
[24] **Q:** On the Stated Meeting of
[25] May 30th, 2007, were you there for the entire

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C. D'Alba

[1] **C. D'Alba**
[2] meeting?
[3] **A:** Yes, sir.
[4] **Q:** Did you during that meeting, did
[5] you see Mrs. Plummer engage in what you've
[6] called disruptive behavior?
[7] **A:** Yes, sir.
[8] **Q:** What was the nature of that
[9] behavior? Could you describe what that
[10] behavior was?
[11] **A:** She was yelling out loud, very,
[12] very boisterous, interrupting the speakers
[13] that were on the floor during their
[14] statements.
[15] **Q:** How often did that happen?
[16] **A:** Several times during the course
[17] of the meeting she was yelling.
[18] **Q:** And what did she say? What words
[19] did she use?
[20] **A:** Particularly I don't remember. I
[21] remember her saying she was calling, I
[22] believe, Councilman Nelson a liar. Things of
[23] that nature.
[24] **Q:** What, if any, was the response of
[25] the presiding officer?

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C. D'Alba

[1] **C. D'Alba**
[2] **A:** Several times throughout that
[3] meeting Ms. Gotbaum hit the gavel and asked
[4] for quiet in the room. I mean, a number, a
[5] number, number of times she did that.
[6] **Q:** And was Mrs. Plummer the only one
[7] who was yelling out loud and being very
[8] boisterous at the meeting?
[9] **A:** On the main floor?
[10] **Q:** Wherever. Okay, first on the
[11] main floor?
[12] **A:** Yes, she was, yes.
[13] **Q:** No one else was yelling out loud
[14] or being very boisterous on the main floor?
[15] **A:** No.
[16] **Q:** What about in the balcony?
[17] **A:** Yes, absolutely in the balcony.
[18] **Q:** When the Public Advocate banged
[19] her gavel and asked for quiet, was she
[20] directing that at Mrs. Plummer?
[21] **A:** I can't answer for the Public
[22] Advocate.
[23] **Q:** Did the Public Advocate ever
[24] direct you to have Mrs. Plummer removed from
[25] the room?

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[1] *C. D'Alba*
[2] **A:** No, but at one point I did
[3] overhear the Public Advocate ask to remove
[4] someone, but I was not in direct eye contact
[5] with the Public Advocate.
[6] **Q:** So you don't know who that was?
[7] **A:** No.
[8] **Q:** At some point in time did you
[9] approach Mrs. Plummer while she was yelling
[10] out loud?
[11] **A:** Yes, sir.
[12] **Q:** Who directed you to approach
[13] Mrs. Plummer?
[14] **MR. MARKS:** Objection to form,
[15] but you can answer.
[16] **A:** Prior to that the chief of staff,
[17] Chuck Mayer, had pointed out to me pointed —
[18] pointed to the vicinity in which Mrs. Plummer
[19] was seated and said, go check it out, see
[20] what's going on over there.
[21] At that point I walked over to
[22] the vicinity to where Mrs. Plummer was
[23] sitting, and I asked her to be quiet.
[24] **Q:** In the vicinity where
[25] Mrs. Plummer was sitting, who else was sitting

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[1] *C. D'Alba*
[2] there if you know? Was she sitting by
[3] herself?
[4] **A:** No, she wasn't sitting by
[5] herself.
[6] **Q:** Do you know who else was sitting
[7] by her?
[8] **A:** I don't know who was sitting by
[9] her particularly, but I believe it was people
[10] in her staff.
[11] **Q:** Was she sitting near Councilman
[12] Barron, Mrs. Plummer?
[13] **A:** Yes, she was on the right hand
[14] side of Mr. Barron, Councilman Barron.
[15] **Q:** And when you approached
[16] Mrs. Plummer and you said to her, to be quiet,
[17] is that the term?
[18] **A:** I asked her to be quiet, yes.
[19] **Q:** When you said that to her what
[20] was her response, if any?
[21] **A:** When I asked her that she had
[22] been up in her seat and then she sat down
[23] briefly and then continued.
[24] **Q:** When you asked her that where
[25] were you standing when you asked her that?

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[1] *C. D'Alba*
[2] Were you standing in front of her, to the
[3] side, where were you standing when you asked
[4] her that?
[5] **A:** I was not standing in front of
[6] her. I was standing in the aisle approaching
[7] her.
[8] **Q:** And did she do anything to
[9] indicate that she — did she turn around when
[10] you said that, when you spoke with her?
[11] **A:** I made direct eye contact with
[12] Mrs. Plummer.
[13] **Q:** And you said to her, be quiet.
[14] Did she say anything to you?
[15] **A:** No, sir.
[16] **Q:** And you're saying she was
[17] standing up and then she sat down?
[18] **A:** Yes. She was up our — I
[19] remember her being up, not fully standing, but
[20] up out of her seat, looking to the rear.
[21] **Q:** And at that point in time when
[22] that happened do you know were one of the
[23] council members speaking at that point?
[24] **A:** I don't remember offhand who was
[25] speaking.

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[1] *C. D'Alba*
[2] **Q:** So you don't know what she was
[3] looking at when she was looking to the rear?
[4] **A:** No.
[5] **Q:** But your testimony is that you
[6] made direct eye contact with her?
[7] **A:** Yes.
[8] **Q:** That to your understanding she
[9] heard you say be quiet, and that she then sat
[10] down after you said that?
[11] **A:** Yes, sir.
[12] **Q:** And then she got right back up?
[13] **A:** No, sir.
[14] **Q:** So she sat down, and then what
[15] did you do after that?
[16] **A:** I returned to the middle isle.
[17] **Q:** At what point did she get back
[18] up?
[19] **A:** She didn't stand up again to my
[20] knowledge.
[21] **Q:** I'm sorry. I thought you
[22] testified that she sat down and then stood
[23] back up. Okay.
[24] After you returned to the isle
[25] did she make any more loud and boisterous

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C. D'Alba

- [1] comments?
[2] **A:** Yes, sir.
[3] **Q:** At that point did you return to
[4] her again?
[5] **A:** No, sir.
[6] **Q:** Did you seek guidance from the
[7] Speaker or from Chuck; did you seek guidance
[8] from anyone around about what to do when she
[9] continued to make outbursts?
[10] **A:** No, sir.
[11] **Q:** Did Mrs. Plummer's conduct
[12] prevent the vote on the amendment that
[13] Councilman Vann put forward about Sonny Carson
[14] from going on?
[15] **A:** Prevent the vote?
[16] **Q:** Yes.
[17] **A:** No, sir.
[18] **Q:** Did Mrs. Plummer's conduct
[19] prevent the vote on the package of co-names
[20] from being carried out, if you remember?
[21] **A:** No.
[22] **Q:** To your recollection, did the
[23] council complete its agenda for that day?
[24] **A:** Yes, sir, they did, sir.
[25]

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C. D'Alba

- [1] **Q:** Was anyone asked to leave the
[2] chamber that day?
[3] **A:** Not to my knowledge, sir.
[4] **Q:** Was anyone arrested for
[5] disruptive conduct that day?
[6] **A:** No, sir.
[7] **Q:** When you went and spoke with
[8] Mrs. Plummer and asked her to be quiet, was
[9] anyone with you, was one of your
[10] Sergeant-at-Arms with you?
[11] **A:** No, sir.
[12] **Q:** Was there anyone else who heard
[13] you say that that you know of?
[14] **A:** I wouldn't know.
[15] **Q:** Did you speak to Councilman
[16] Barron when you went over? He was close to
[17] you when you spoke to Mrs. Plummer, correct,
[18] Councilman Barron's seat was adjacent?
[19] **A:** The next isle.
[20] **Q:** Did you say anything to
[21] Councilman Barron about Mrs. Plummer's conduct
[22] at that time?
[23] **A:** About her conduct?
[24] **Q:** About her conduct, yes, at the
[25]

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C. D'Alba

- [1] meeting.
[2] **A:** No, sir.
[3] **Q:** Was there a point in time when
[4] you were told that Mrs. Plummer had made a
[5] comment about assassinating Councilman
[6] Comrie's ass?
[7] **A:** Was there a point in time, yes,
[8] there was.
[9] **Q:** Did you hear the actual comment
[10] yourself?
[11] **A:** No, sir, I did not.
[12] **Q:** Who brought it to your attention?
[13] **A:** Chuck Mayer.
[14] **Q:** When was that?
[15] **A:** The day of the press conference,
[16] right after the press conference he called me.
[17] **Q:** You say it was a press
[18] conference. Did you see a press conference
[19] occurring?
[20] **A:** As the press conference was
[21] happening on the steps, I did witness it, but
[22] I was not there for the press conference.
[23] **Q:** And this was on the steps of City
[24] Hall?
[25]

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C. D'Alba

- [1] **A:** I believe so, yes.
[2] **Q:** And someone told you that the
[3] comments were made by Mrs. Plummer while she
[4] was standing on the steps of City Hall?
[5] **A:** Chuck Mayer told me of the
[6] assassination comments that Mrs. Plummer made,
[7] yes.
[8] **Q:** What did you do when you heard
[9] the report of the comments?
[10] **A:** I made a mental note of it, and I
[11] asked what would you like me to do at this
[12] point? I contacted Councilman Comrie's staff,
[13] I don't remember exactly who I spoke to. And
[14] that's what I did.
[15] **Q:** Did you approach Mrs. Plummer to
[16] ask her whether the comment was accurate?
[17] **A:** I had no conversation with
[18] Mrs. Plummer in regards to that.
[19] **Q:** And you didn't ask her what she
[20] meant by that, you had no conversation with
[21] her about it at all?
[22] **A:** No, sir, I didn't.
[23] **Q:** When you heard the comment, what
[24] was your reaction?
[25]

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C. D'Alba

[1] **A:** When I heard the comment from —
[2] **Q:** When you heard the report of the
[3] comment, what was your reaction?
[4] **A:** I was kind of surprised of the
[5] context of it, yes.
[6] **Q:** And by context you mean?
[7] **A:** Of the word, using the word
[8] assassination.
[9] **Q:** Did you personally think that she
[10] meant to, she was going to assassinate
[11] Councilman Comrie?
[12] **A:** Personally I take every threat
[13] seriously. I mean, in my line of business
[14] there is no room for your own opinion. And
[15] you have to take each threat as face value, as
[16] a threat. You treat it as such.
[17] **Q:** That's your professional response
[18] to it?
[19] **A:** Yes, sir.
[20] **Q:** Personally, did you think that
[21] Mrs. Plummer meant to assassinate Council
[22] member Comrie?
[23] **A:** At that time I didn't form an
[24] opinion.
[25]

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C. D'Alba

[1] **Q:** You take every threat,
[2] professionally, you take every threat
[3] seriously and you take steps to address it?
[4] **A:** Yes, sir.
[5] **Q:** When Council member Vallone said
[6] that —
[7] **A:** Council member?
[8] **Q:** Vallone said that Con Edison
[9] should be strung from a lamp post, the
[10] executives of Con Edison should be truck from
[11] a lamp post, did you take any steps to deal
[12] with that?
[13] **MR. MARKS:** Objection to form,
[14] but you can answer.
[15] **A:** That didn't come to me as a
[16] threat. So I didn't really think about it
[17] very much.
[18] **Q:** Did you notify the police
[19] department?
[20] **A:** I believe —
[21] **MR. MARKS:** In relation to?
[22] **Q:** I'm sorry. In relation to
[23] Mrs. Plummer's comments around Council member
[24] Comrie's ass?
[25]

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[1] **A:** Personally, I did not.
[2] **Q:** Do you know who did? Did anyone?
[3] **A:** I believe Councilman Comrie did.
[4] **Q:** You met with Councilman Comrie?
[5] **A:** Yes, sir.
[6] **Q:** Did you suggest to him that he
[7] should notify the police?
[8] **A:** I asked him if he would like to
[9] notify the police, I would help him negotiate
[10] that. But I didn't make any suggestion, one
[11] way or the other, what he should do.
[12] **Q:** What was Councilman Comrie's
[13] response to this comment, to Mrs. Plummer's
[14] comment? What was his response in terms of —
[15] withdrawn.
[16] Did Councilman Comrie ask for
[17] security?
[18] **A:** Not to my knowledge, and I don't
[19] know of it.
[20] **Q:** Was security supplied to Council
[21] member Comrie?
[22] **A:** I do not believe so.
[23] **Q:** If security were, would the
[24] security come from your office?
[25]

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[1] **A:** Well, it's two fold.
[2] **Q:** Okay.
[3] **A:** Threat assessment would be
[4] advised. They would come in and they would
[5] make a determination. Based upon their
[6] determination, at that point, NYPD officers
[7] can be assigned if warranted.
[8] **Q:** Threat assessment is a NYPD unit?
[9] **A:** Yes.
[10] **Q:** But your security doesn't have
[11] the capacity to make that type of assessment?
[12] **A:** I'd ask the Council member
[13] personally, if he wanted me, I would be more
[14] than happy to, you know, stay with him, travel
[15] with him, go to his events, as I did with
[16] Mr. Barron.
[17] **Q:** But Council member Comrie did not
[18] ask you to do that?
[19] **A:** No, sir.
[20] **Q:** So to your knowledge, did the
[21] NYPD threat assessment unit make an assessment
[22] of Mrs. Plummer's comments?
[23] **A:** I believe they did not. I don't
[24] believe they were called.
[25]

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[1]
[2] **Q:** And you said you're not aware of
[3] whether or not the NYPD assigned security to
[4] Council member Comrie?

[5] **A:** That's correct.

[6] **Q:** During your tenure as director of
[7] security have there been any other stated
[8] meetings where there were disruptions?

[9] **A:** Stated meetings — not to my
[0] knowledge.

[1] **Q:** Have there been any other
[2] meetings where Mrs. Plummer engaged in
[13] disruptive conduct?

[14] **A:** Any other stated council member
[15] meetings?

[16] **Q:** Committee meetings as well,
[17] stated meetings, committee meeting?

[18] **A:** Hearings, yes.

[19] **Q:** Let me back up a second. There
[20] were stated meetings on June 13th and
[21] June 27th of 2007, correct?

[22] **A:** Yes, sir.

[23] **Q:** Were you present at those
[24] meetings?

[25] **A:** Yes, sir.

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[1] **Q:** Was Mrs. Plummer present?

[2] **A:** I'm not entirely sure.

[3] **Q:** Were there any disruptions at
[4] those meetings that you went to?

[5] **A:** Not to my knowledge.

[6] **Q:** Now you said there were committee
[7] meetings or meetings where Mrs. Plummer was
[8] engaged in disruptive conduct?

[9] **A:** Hearings, that I recall of, yes.

[10] **Q:** When were there?

[11] **A:** I don't have specific dates, but
[12] Councilman Vallone brought it to my attention.

[13] **Q:** Did he indicate, without the
[14] date, what the hearing was about, when
[15] approximately, when it was?

[16] **A:** I was there actually at the
[17] hearing and I couldn't tell you the date.

[18] **Q:** Did you witness the disruptive
[19] conduct that Mrs. Plummer engaged in at that
[20] hearing?

[21] **A:** No, I did not.

[22] **Q:** But you were there for the entire
[23] meeting?

[24] **A:** I was there for the meeting and
[25]

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[1] — I wasn't there for the entire meeting and
[2] Councilman Vallone brought it to my attention.
[3] He pointed Mrs. Plummer out and explained to
[4] me what had happened.

[5] **Q:** What did Councilman Vallone say
[6] had happened?

[7] **A:** He said that she was interrupting
[8] the hearing by making loud statements.

[9] **Q:** Did he indicate what the loud
[10] statements were?

[11] **A:** He probably did, I don't remember
[12] offhand.

[13] **Q:** This was a meeting that he was
[14] chairing?

[15] **A:** He was the chair, yes.

[16] **Q:** And as chair, he had the
[17] authority to have anyone removed from the
[18] meeting?

[19] **A:** Yes, sir.

[20] **Q:** Did he have Mrs. Plummer removed
[21] from the meeting?

[22] **A:** Not to my knowledge, sir, no.

[23] **Q:** At what point did he bring this
[24] to your attention, during the meeting?
[25]

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[1] **A:** During the meeting and after the
[2] meeting.

[3] **Q:** Did he ask you to do anything
[4] about it?

[5] **A:** Yes, he did.

[6] **Q:** What did he ask you to do?

[7] **A:** He asked me to look into having
[8] Mrs. Plummer banned from all of his hearings.

[9] **Q:** What was the result of his
[10] request, what did you do?

[11] **A:** We did not ban her. We let her
[12] continue to go to hearings and if the problem
[13] persisted then at that point we made a
[14] decision to see what would happen.

[15] **Q:** Did you communicate Councilman
[16] Vallone's concerns to Mrs. Plummer?

[17] **A:** I did not.

[18] **Q:** Did you instruct anyone to
[19] communicate Councilman Vallone's concerns to
[20] Mrs. Plummer?

[21] **A:** I did not.

[22] **Q:** Do you know whether Councilman
[23] Vallone spoke to Mrs. Plummer?

[24] **A:** I have no idea, sir.
[25]

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[1]
[2] **Q:** Do you know if Councilman Vallone
[3] spoke to Councilman Barron about this?
[4] **A:** I have no idea, sir.
[5] **Q:** Did you speak to Council member
[6] Barron about this?
[7] **A:** No, sir.
[8] **Q:** Did you instruct anyone to speak
[9] to Council member Barron about it?
[10] **A:** No, sir.
[11] **Q:** So this plan that you just set
[12] out, that you were allowing her to attend
[13] committee meetings and if something happened
[14] in the future she would be banned, was never
[15] communicated to her?
[16] **MR. MARKS:** Objection to the
[17] form. You can answer.
[18] **A:** Not that she would be banned but
[19] at that point she would be advised and be
[20] spoken to and say, this conduct cannot be
[21] continued, and this would be the result.
[22] **Q:** But no one ever communicated that
[23] to her?
[24] **A:** No, sir.
[25] **Q:** That was a plan that security had

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[1] but was never communicated to her?
[2] **A:** That was my plan, sir.
[3] **Q:** That was your plan. Similarly,
[4] back at Stated Meeting on May 30th did you
[5] communicate to Mrs. Plummer that if she
[6] continued to be disruptive she faced
[7] suspension from her job?
[8] **A:** From the May 30th meeting?
[9] **Q:** Yes.
[10] **A:** I had no such conversation.
[11] **Q:** Did the speaker communicate to
[12] you that if Mrs. Plummer continued to be
[13] disruptive she would face suspension from her
[14] job during the meeting of May 30th, 2007?
[15] **A:** No, sir.
[16] **Q:** Aside from Council member
[17] Vallone's complaint at that hearing what other
[18] committee hearings or meetings was
[19] Mrs. Plummer disruptive at?
[20] **A:** None that I'm aware of, sir.
[21] **Q:** Do you remember swearing out an
[22] affidavit that was submitted as part of the
[23] speaker's response to opposing a motion for a
[24] preliminary injunction that we had filed in

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[1] this case?
[2] **A:** Excuse me, sir?
[3] **Q:** Do you remember filling out —
[4] swearing to an affidavit on July 3rd, 2007
[5] concerning Mrs. Plummer's conduct at the
[6] Stated Meeting?
[7] **A:** Yes, sir, I do.
[8] **MR. WAREHAM:** This will be
[9] Plaintiff's 13.
[10] (Plaintiff's Exhibit 13,
[11] Affidavit, was marked for
[12] identification, as of this date.)
[13] **MR. WAREHAM:** The second page is
[14] stapled backwards.
[15] **MR. MARKS:** Okay.
[16] **Q:** In preparation for this
[17] deposition, did you review any documents?
[18] **A:** Yes, sir.
[19] **Q:** Which documents did you review?
[20] **A:** This particular one.
[21] **Q:** So you're familiar with it. In
[22] paragraph 11 of your affidavit, you refer to
[23] an incident that occurred approximately
[24] two days after the May 30th, 2007 Stated

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[1] Meeting involving your Sergeant-at-Arms.
[2] Can you just flush that out in
[3] terms of what exactly the Sergeant-at-Arms
[4] told you happened that day?
[5] **A:** He told me that there were was
[6] some kind of altercation between Councilman
[7] Comrie and Mrs. Plummer in the hallway.
[8] **Q:** In the hallway where?
[9] **A:** I believe, on the 18th floor.
[10] **Q:** And what was the nature of the
[11] altercation?
[12] **A:** That I don't know. But they
[13] exchanged words. I don't know if they were
[14] coming off the elevator together, or one was
[15] going on the elevator and one was coming off
[16] the elevator, or going into their offices.
[17] You'd have to ask my Sergeant-at-Arms in
[18] particular.
[19] **Q:** Which Sergeant-at-Arms is that?
[20] **A:** Israel Martinez.
[21] **Q:** Was the location in the area, the
[22] elevator area or in the hallway where the
[23] offices are?
[24] **A:** I'm really not sure, I'd be

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[1] speculating.
[2] **Q:** And altercation, was there
[3] physical contact?
[4] **A:** That wasn't conveyed to me.
[5] Verbal.
[6] **Q:** It's verbal. And did you ask him
[7] specifically what happened?
[8] **A:** I did.
[9] **Q:** What did he tell you?
[10] **A:** He told me that the Council
[11] member as well as Mrs. Plummer exchanged
[12] words, and were going back and forth at each
[13] other in the hallway.
[14] **Q:** Exchanged words. I mean, they
[15] were cursing at each other? Did you try to
[16] find out?
[17] **A:** I have no idea.
[18] **Q:** Did you try to find out
[19] specifically what it was?
[20] **A:** I don't remember.
[21] **Q:** In your affidavit you said that
[22] Mrs. Plummer called Council member Comrie
[23] derisive names. What did that mean to you,
[24] what were the derisive names? He must have
[25]

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[1] told you something or did he say, Mrs. Plummer
[2] called Councilman Comrie derisive names?
[3] **A:** Yes, I don't remember exactly
[4] what he had said.
[5] **Q:** But at the time you swore out the
[6] affidavit you summed up that what those words
[7] were derisive?
[8] **A:** Yes.
[9] **Q:** When did he inform you of this?
[10] **A:** I believe the day of, later on
[11] that evening, I believe.
[12] **Q:** You indicated was on or about
[13] June 1st?
[14] **A:** Yes, that could be that's —
[15] **Q:** Did you speak to Council member
[16] Comrie about that, about the incident?
[17] **A:** No, I did not.
[18] **Q:** Did you question him or ask him
[19] what happened, did he want to do anything
[20] about it?
[21] **A:** No, sir.
[22] **Q:** Did you suggest that he get
[23] security, this is a day or so after the
[24] May 30th?
[25]

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[1] **A:** Well we have the Sergeant-at-Arms
[2] there on the floor.
[3] **Q:** Did the Sergeant-at-Arms call you
[4] immediately when that happened or when did he
[5] notify you? Immediately at the time it
[6] happened?
[7] **A:** No, sir, I don't believe so.
[8] **Q:** So he didn't see it as something
[9] so urgent that it required an immediate
[10] response?
[11] **MR. MARKS:** Objection to form.
[12] You can answer.
[13] **A:** I have no opinion as to that.
[14] **Q:** Are your Sergeants-at-arms
[15] instructed to — is the normal procedure for
[16] them to inform you when there is an urgent
[17] situation that needs to be addressed?
[18] **A:** They would inform their immediate
[19] supervisor.
[20] **Q:** Who was Mr. Martinez's immediate
[21] supervisor?
[22] **A:** That would be Elias Cabrera and
[23] Ralph Martinez.
[24] **Q:** Do you know whether he informed
[25]

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[1] either of them immediately?
[2] **A:** Ralph Perez, I'm sorry.
[3] No, he did not.
[4] **Q:** Is there a Sergeant-at-Arms on
[5] each floor where Council members have offices?
[6] **A:** That depends on the day, sir.
[7] **Q:** Is the Sergeant-at-Arms normally
[8] seated at the or situated at the desk in front
[9] of the elevator bank?
[10] **A:** Their desk is located in front of
[11] the elevator bank, yes.
[12] **Q:** Is that where they're stationed,
[13] if a Sergeant-at-Arms is stationed on the 18th
[14] floor that's his station?
[15] **A:** Yes, they're assigned the lobby,
[16] yes.
[17] **Q:** The lobby, okay. They don't
[18] normally go inside the office areas, those
[19] locked doors?
[20] **A:** They can. They're instructed to
[21] go inside the office areas because we do
[22] vertical patrols of the staircases.
[23] **Q:** So part of their assignment is
[24] not just the lobby area but also to go inside
[25]

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[1] the office areas?
[2] **A:** Yes, sir.
[3] **Q:** In your affidavit of July 3rd, in
[4] paragraph 12, you state that you had to
[5] respond to security threats to council member
[6] Charles Barron that resulted from
[7] Mrs. Plummer's conduct.
[8] **A:** Yes.
[9] **Q:** And then you indicated you also
[10] responded to there being threatening flyers
[11] plastered on the outside of Council member
[12] Barron's district office by persons who
[13] apparently was displeased by Mrs. Plummer's
[14] conduct?
[15] **A:** Yes.
[16] **Q:** What were the flyers that were
[17] posted on Council member Barron's office?
[18] **A:** What were they?
[19] **Q:** What did they say?
[20] **A:** I don't have one in front of me.
[21] But it was a Jewish organization, I couldn't
[22] tell you what it said word for word.
[23] **Q:** Did it speak to — did it mention
[24] Mrs. Plummer in the flyer?
[25]

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[1] **A:** Yes, her name was mentioned and
[2] also Councilman Barron's name was mentioned.
[3] **MR. MARKS:** Would you like a copy
[4] of the flyer?
[5] **MR. WAREHAM:** Sure.
[6] **MR. MARKS:** It's not Bates
[7] stamped or anything but I will just
[8] give you a copy of the flyer.
[9] **MR. WAREHAM:** Thank you.
[10] **MR. MARKS:** If you want extra
[11] copies made for an exhibit for the
[12] deposition we can do that.
[13] **MR. WAREHAM:** Okay.
[14] **MR. MARKS:** Just let the record
[15] reflect that I gave Mr. Wareham a copy
[16] of the flyer that is referred to in
[17] paragraph 12 of Mr. D'Alba's affidavit.
[18] **MR. WAREHAM:** I guess we'll get a
[19] copy and put it in as Plaintiff's 14.
[20] **MR. MARKS:** Do you want me to
[21] make this extra copy now?
[22] **MR. WAREHAM:** Yes, we'll stop for
[23] a second.
[24] (Recess.)
[25]

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[1] (Plaintiff's Exhibit 14, flyer,
[2] was marked for identification, as of
[3] this date.)
[4] **Q:** Let's look at Plaintiff's 14,
[5] please. This is the flyer that you said was
[6] posted on the wall?
[7] **A:** Yes, sir.
[8] **MR. MARKS:** He didn't say wall
[9] but he said —
[10] **Q:** On the offices of Council member
[11] Barron, the district offices?
[12] **A:** Yes.
[13] **Q:** In East New York?
[14] **A:** Yes.
[15] **Q:** And you concluded from that flyer
[16] that it was Mrs. Plummer's conduct which was
[17] the focus of that flyer?
[18] **A:** Yeah, her remarks as to the
[19] assassination, absolutely, yes, sir.
[20] **Q:** The flyer speaks to Charles
[21] Barron as well?
[22] **A:** Yes, sir.
[23] **Q:** And Sonny Carson?
[24] **A:** Yes, sir.
[25]

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[1] **Q:** But your conclusion is that it
[2] was mainly because of Mrs. Plummer that this
[3] flyer was posted?
[4] **A:** I didn't say mainly. It had to
[5] do with it, yes, sir.
[6] **Q:** And because of that, you had to
[7] respond in terms of security?
[8] **A:** Yes, sir, I did.
[9] **Q:** And Councilman Barron requested
[10] it?
[11] **A:** Did he request it? I don't know
[12] that he requested the security. I showed up
[13] at the district office, and I offered my
[14] services.
[15] **Q:** And did he accept your services?
[16] **A:** As far as providing security for
[17] Mr. Barron?
[18] **Q:** Well you said you offered — what
[19] services did you offer him?
[20] **A:** Well I offered — I said to
[21] Mr. Barron that if you needed I would stay at
[22] the district office for as long as you needed
[23] me to. I would, you know, I would go with him
[24] to his events if he felt uncomfortable in any
[25]

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[1] way or manner. I checked in regularly with
[2] staff as far as their well being. Those are
[3] the services that I offered.
[4] He had already contacted threat
[5] assessment and the local precinct — I don't
[6] know if he did it or his staff did it.
[7] **Q:** So he didn't take you up on your
[8] offer?
[9] **A:** He said he felt comfortable, and
[10] at this point in time he was fine. He was
[11] worried, he was very concerned about his
[12] staff.
[13] **Q:** Do you remember in the early part
[14] of July contacting or e-mailing Chuck Mayer
[15] about how he would like you to handle
[16] Mrs. Plummer in the event she decides she does
[17] not want to abide by the rules regarding
[18] civilians?
[19] **A:** I don't remember the e-mail
[20] particularly, no.
[21] **Q:** Let me show you what was marked
[22] Plaintiff's 12.
[23] **A:** Okay.
[24] **Q:** Does that refresh your
[25]

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[1] recollection?
[2] **A:** Yes, sir.
[3] **Q:** What were you referring to in
[4] terms of Mrs. Plummer abiding — refusal to
[5] abide by rules of civilians?
[6] **A:** I believe this was — I don't
[7] believe this was in reference to City Hall.
[8] This was in reference again, to the best of my
[9] recollection, to Mrs. Plummer's entrance into
[10] 250 Broadway.
[11] **Q:** Can you just — what about her
[12] entrance into 250 Broadway?
[13] **A:** Well at this point in time I'm
[14] not sure exactly, but I believe her
[15] identification had been de activated and we
[16] were going to be treating Mrs. Plummer as a
[17] civilian member. And which would mean that
[18] she would have to go to the desk and present
[19] herself to the Sergeant-at-Arms, at which time
[20] he would call upstairs to see — to make sure
[21] that somebody was up there to receive her.
[22] That's what we do for all civilians. I'm
[23] pretty sure that's what this is.
[24] **Q:** Thank you.
[25]

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C. D'Alba

[1] **MR. WAREHAM:** I have no further
[2] questions at this time.
[3] **MR. MARKS:** I have no questions.
[4] (Time noted: 11:29 a.m.)
[5]
[6]
[7]
[8]
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C. D'Alba

[1] I, the witness herein, having
[2] read the foregoing testimony do hereby
[3] certify it to be a true and correct
[4] transcript, subject to the corrections,
[5] if any, shown on the attached page.
[6]
[7]
[8]
[9]
[10]

CARL D'ALBA

[11]
[12]
[13]
[14]
[15] Subscribed and sworn to
[16] before me this ____ day
[17] of _____, 2007.
[18]
[19]
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[1]
[2] CERTIFICATE
[3] STATE OF NEW YORK)
[4] :ss.:
[5] COUNTY OF NEW YORK)
[6]
[7] I, Vicky Galitsis, a Certified
[8] Shorthand Reporter and Notary Public within
[9] and for the State of New York, do hereby
[10] certify:
[11] That, CARL D'ALBA, the witness whose
[12] deposition is hereinbefore set forth, was
[13] duly sworn by me and that such deposition is
[14] a true record of the testimony given by such
[15] witness.
[16] I further certify that I am not
[17] related to any of the parties to this action
[18] by blood or marriage that I am in no way
[19] interested in the outcome of this matter.
[20] In witness whereof, I have hereunto
[21] set my hand this 21st of August 2007.
[22]
[23]
[24]
[25] VICKY GALITSIS, CSR

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Lawyer's Notes

Exhibit I

Page 1

[1]
[2] UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
[3]
[4] VIOLA PLUMMER,
[5] Plaintiff, Civil Action No.
[6] -against- 07 CV 6154(WHP)
[7] CHRISTINE QUINN,
[8] Speaker of the City Council,
[9] Defendant.
[10]
[11] August 13, 2007
2:26 p.m.
[12]
[13]
[14]
[15] DEPOSITION of WAYNE KAWADLER, taken
[16] by the Plaintiff, pursuant to Notice, at the law
[17] offices of The Corporation Counsel, 100 Church
[18] Street, New York, New York before Karen Perlman,
[19] a Shorthand Reporter and Notary Public within and
[20] for the State of New York.
[21]
[22]
[23]
[24] GREENHOUSE REPORTING, INC.
363 Seventh Avenue - 20th Floor
New York, New York 10001
[25] (212) 279-5108

Page 2

[1]
[2] APPEARANCES:
[3] LAW OFFICES OF ROGER S. WAREHAM, ESQ.
[4] Attorneys for the Plaintiff
[5] 394 Putnam Avenue
[6] Brooklyn, New York 11216
[7]
[8] NEW YORK CITY LAW DEPARTMENT
[9] OFFICE OF THE CORPORATION COUNSEL
[10] Attorneys for Defendant
[11] 100 Church Street
[12] New York, New York 10007
[13] BY: PAUL MARKS, ESQ.
[14] -and-
[15] JAMES M. LEMONEDES, ESQ.
[16] -and-
[17] NEW YORK CITY COUNCIL
[18] OFFICE OF THE GENERAL COUNSEL
[19] Attorneys for Defendant
[20] 250 Broadway
[21] New York, New York 10007
[22] BY: ALVIN L. BRAGG, JR., ESQ.
[23]
[24] ALSO PRESENT:
[25] Viola Plummer

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[1]
[2] STIPULATIONS
[3] IT IS HEREBY STIPULATED AND AGREED
[4] by and between the attorneys for the respective
[5] parties hereto, that all objections, except as to
[6] form, shall be reserved to the time of trial.
[7] IT IS FURTHER STIPULATED AND AGREED
[8] that the sealing and filing of the within
[9] deposition are hereby waived.
[10] IT IS FURTHER STIPULATED AND AGREED
[11] that the within deposition may be subscribed and
[12] sworn to by the witness being examined before a
[13] Notary Public other than the Notary Public before
[14] whom this deposition was begun.
[15]
[16]
[17]
[18]
[19]
[20]
[21]
[22]
[23]
[24]
[25]

Page 4

[1] **W. Kawadler**
[2] WAYNE KAWADLER, stating a business
[3] address of City Hall, New York, New
[4] York 11412, having been first duly
[5] sworn by the Notary Public, was
[6] examined and testified under oath as
[7] follows:
[8] **EXAMINATION**
[9] **BY MR. WAREHAM:**
[10] **Q:** Good afternoon, Mr. Kawadler, my
[11] name is Roger Wareham, and I'm the attorney for
[12] Viola Plummer, and just a couple of preliminary
[13] questions?
[14] Have you ever been deposed before?
[15] **A:** No.
[16] **Q:** Just some basic rules, you're
[17] testifying underneath, if there are any questions
[18] that I ask that you don't understand, either in
[19] terms of form or content, please indicate and
[20] I'll try and clarify it.
[21] If you need to take a break or
[22] anything, just let somebody know, we can do that.
[23] I have to ask you, have you taken
[24] any medications or anything today that may impair
[25] your ability to answer clearly?

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W. Kawadler

A: No.

Q: What is your title at City Hall, at City Council?

A: Senior advisor to the Speaker.

Q: And how long have you been senior advisor to the Speaker?

A: For a year and a half.

Q: And what did you do prior to that in terms of work, immediately prior?

A: I was special advisor to the Speaker.

Q: And how long were you the special advisor to the Speaker?

A: About a year.

Q: And prior to that?

A: I was the scheduler to the Speaker.

Q: And what are your responsibility as senior advisor to the Speaker?

A: I oversee the administrative services division, the scheduling division, the Speaker's district office, that's about it.

Q: And how did your task as senior advisor differ from those of special advisor, or do they?

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W. Kawadler

A: I have more direct reports, I have more — I supervise more departments.

Q: Do you have direct access to the Speaker?

A: Yes.

Q: Do you have any particular personnel responsibilities as senior advisor to the Speaker?

A: I don't understand.

Q: Do you have responsibility for the staff that works under the Speaker, is that part of your job responsibility, supervising the staff that works under the Speaker?

A: Some of them.

Q: Do you have responsibilities in terms of — for which ones, I'm sorry, for which ones do you have responsibility for supervising?

A: The — again, the administrative services division, the scheduling division and the district office.

Q: Did you review any documents in preparation for your testimony today?

A: My affidavit.

Q: That was the only one, the only

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W. Kawadler

[1] document that you reviewed?

[3] A: Yes.

[4] Q: Were you at the stated meeting on May 30, 2007?

[6] A: Yes.

[7] Q: Were you there for the entire meeting?

[9] A: Yes.

[10] Q: Did you see Mrs. Plummer at the meeting?

[12] A: Yes. Yes.

[13] Q: And how would you describe Mrs. Plummer's conduct during the meeting, that you remember?

[16] A: Loud, interruptive, disruptive. Can you repeat the question?

[18] Q: I said how would you describe Ms. Plummer's conduct at the meeting?

[20] A: Unprofessional.

[21] Q: Can you be more explicit in terms of when you say loud, interruptive, disruptive, what in particular, can you refer to something specifically?

[24] A: She spoke in a loud voice while

Page 8

W. Kawadler

[1] members were speaking.

[3] Q: Do you remember any particular —

[4] A: I believe she said, "Liar", several times, and, you know, like "That is not true", I believe I even heard her say that — calling names of people, of members.

[8] Q: When you say that, what do you mean calling names, calling a name out?

[10] A: No, calling somebody like a cracker.

[11] Q: During the meeting?

[12] A: During the meeting.

[13] Q: And how often did that happen, if you remember, how often did that happen during the meeting?

[16] A: During the entire meeting.

[17] Q: Throughout the entire meeting?

[18] A: Calling someone a cracker, how often did what happen?

[20] Q: No, the loud, interruptive, disruptive, unprofessional behavior?

[22] A: Well, during the part of the meeting that was devoted to the Sonny Carson street renaming.

[25] Can we go back a couple of

Page 9

[1] **W. Kawadler**
[2] questions?
[3] **Q:** What —
[4] **A:** I just want to say I observed
[5] Mrs. Plummer, but I didn't at that point know who
[6] she was, I had no idea, I just observed, I know
[7] now who she is.
[8] **Q:** Do you remember what she was wearing
[9] that day?
[10] **A:** A white hat is what I remember. And
[11] sitting close to Council Member — on the side
[12] close to Council Member Barron's side.
[13] **Q:** Was anyone else in the chambers
[14] being loud, being interruptive or disruptive —
[15] **A:** People —
[16] **Q:** — on May 30th?
[17] **A:** — on the balcony. I don't recall
[18] the people on the floor.
[19] **Q:** As senior advisor to the Speaker,
[20] are you familiar with rules governing the City
[21] Council?
[22] **A:** Yes.
[23] **Q:** Do you know under the rules who has
[24] the authority to restore order in the face of a
[25] disruption?

Page 10

[1] **W. Kawadler**
[2] **A:** Yes.
[3] **Q:** And who is that?
[4] **A:** The Public Advocate.
[5] **Q:** And do you know what steps the
[6] Public Advocate can take to restore order in a
[7] case of a disruption?
[8] **A:** I believe she can, you know, ask
[9] people to be quiet and respect the Council
[10] members as they speak.
[11] **Q:** Are there any other steps that she
[12] can take to restore order that you're aware of?
[13] **A:** I think she can clear the floor if
[14] she wanted, or so deemed it necessary.
[15] **Q:** And the presiding officer at this
[16] May 30, 2007 stated meeting was?
[17] **A:** Betsy Gotbaum, the Public Advocate.
[18] **Q:** During that meeting, did the Public
[19] Advocate ask Ms. Plummer to be quiet?
[20] **A:** Several times she asked the people
[21] who were watching and were making noise to be
[22] quiet.
[23] **Q:** Did she specify Ms. Plummer?
[24] **A:** No.
[25] **Q:** Did she threaten to have anyone

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[1] **W. Kawadler**
[2] removed from the chambers that day?
[3] **A:** I don't remember.
[4] **Q:** Do you know if anyone was removed
[5] from the chambers that day?
[6] **A:** No, I don't believe so.
[7] **Q:** Where were you sitting during that
[8] meeting?
[9] **A:** I was standing.
[10] **Q:** Where were you standing?
[11] **A:** In the center aisle between the two
[12] aisles of the members.
[13] **Q:** Were you standing near the seat of
[14] the Speaker, of Ms. Quinn?
[15] **A:** At times, yes.
[16] **Q:** Did the Speaker have any reaction to
[17] Ms. Plummer's conduct that you're aware of?
[18] **A:** No, not during the meeting.
[19] **Q:** Do you know whether she spoke to Ms.
[20] Gotbaum about Ms. Plummer's conduct during the
[21] meeting, are you aware of the fact of whether or
[22] not she did?
[23] **A:** I'm not aware of it.
[24] **Q:** Do you know if she spoke to
[25] Mr. D'Alba during the meeting about Ms. Plummer's

Page 12

[1] **W. Kawadler**
[2] conduct?
[3] **A:** I don't know.
[4] **Q:** Did Ms. Plummer's conduct prevent
[5] the vote on the amendment to include Sonny
[6] Carson's name for being carried out?
[7] **A:** No.
[8] **Q:** Did Ms. Plummer's conduct prevent
[9] the vote on the package of street co-namings?
[10] **A:** No.
[11] **Q:** Do you know if the Council completed
[12] its agenda, its scheduled agenda for the May 30th
[13] meeting, 2007, on that day?
[14] **A:** I believe so, yes.
[15] **Q:** Was there a point in time when you
[16] became aware of a remark Ms. Plummer made about
[17] assassinating Councilman Comrie's ass or
[18] political ass?
[19] **MR. MARKS:** Objection to the form.
[20] You can answer.
[21] **MR. LEMONEDES:** You can answer.
[22] **A:** Yes.
[23] **Q:** And did you hear the comment
[24] yourself?
[25] **A:** No.

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W. Kawadler

- 1] **Q:** How did it come to your attention?
2] **A:** I was in the Speaker's office after
3] the stated meeting, and somebody came down and
4] told us.
5] **Q:** Do you remember who that was?
6] **A:** I don't remember.
7] **Q:** And what did they tell you?
8] **A:** That there was a press conference
9] outside and Ms. Plummer threatened to assassinate
10] Council Member Comrie.
11] **Q:** And they said it was a press
12] conference?
13] **A:** I believe so.
14] **Q:** Did they say where it had been, this
15] press conference had been held?
16] **A:** On the steps.
17] **Q:** This is what you were told, because
18] you didn't see it yourself, right?
19] **A:** I did not see it.
20] **Q:** Did you attend the stated meetings
21] of the Council on June 13th and June 27th of
22] 2007?
23] **A:** I believe so.
24] **Q:** Did you see Ms. Plummer there at

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W. Kawadler

- 1] those meetings? Do you remember her being there?
2] **A:** I don't recall.
3] **Q:** Is it your understanding that
4] Speaker Quinn has the legal authority to
5] discipline, initially to suspend Mrs. Plummer,
6] that she had the legal authority to do that?
7] **A:** Say that again.
8] **Q:** Let me rephrase the question.
9] Is it your understanding that
10] Speaker Quinn had the authority to suspend
11] Mrs. Plummer for her conduct and words or words
12] basically on May 30th —
13] **MR. MARKS:** Objection.
14] **Q:** — 2007?
15] **MR. MARKS:** Objection to form but
16] you can answer.
17] You can answer.
18] **A:** I — I believe she has the
19] authority, yes.
20] **Q:** And from where does she derive that
21] authority?
22] **A:** From the Charter.
23] **Q:** Do you know which section of the
24] Charter gives her the authority to suspend or
25]

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W. Kawadler

- 1] terminate staff members of individual Council
2] members?
3] **A:** I don't know the section.
4] **Q:** If I showed you a section of the
5] Charter, do you think you would be able to
6] identify it?
7] **A:** Possibly. I mean I could tell you
8] the theory —
9] **Q:** Okay.
10] **A:** — or — the legal theory that I
11] believe.
12] **Q:** Why don't you first tell me the
13] first the legal theory then?
14] **A:** That she is an agency head.
15] **Q:** And?
16] **A:** And as head of the New York City
17] Council agency, that is in quotes, she has the
18] power to hire and fire personnel.
19] **Q:** And you said New York City Council
20] in quotes, what does that mean? You said head
21] of —
22] **A:** That is an agency.
23] **Q:** Now let me refer you to what has
24] been marked as Plaintiff's Exhibit 7, and refer
25]

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W. Kawadler

- 1] you to section 21, just read through that a
2] second.
3] You can look through the other
4] sections as well, if you would like, and maybe
5] you can identify the section that you said gives
6] her the authority over personnel of individual
7] Council members?
8] **MR. LEMONEDES:** Noting of course
9] that there are only certain portions of
10] this.
11] **MR. WAREHAM:** Certain portions of
12] this, definitely.
13] **A:** I don't see it in here.
14] **Q:** Let me just draw your attention to
15] section 21 of the Charter. Can you just read
16] that paragraph into the record —
17] **A:** "Shall" —
18] **Q:** — it says, "The Council"?
19] **A:** "The Council, there shall be a
20] Council which shall be the legislative body of
21] the City in addition to the other powers vested
22] in it by this Charter and other law, the Council
23] shall be vested with the legislative power of the
24] City. Any enumeration of powers in this Charter
25]

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W. Kawadler

[1] shall not be held to limit the legislative power
[2] of the Council except as specifically provided in
[3] this Charter."
[4] **Q:** Thank you.
[5] So this section identifies the
[6] Council as a legislative body, correct?
[7] **A:** Correct.
[8] **Q:** It doesn't identify it as an agency
[9] of the City of New York, right?
[10] **A:** Correct.
[11] **DIR Q:** Can you tell me where the theory
[12] that the City Council was an agency of the City
[13] of New York came from? Who presented that theory
[14] to you?
[15] **MR. MARKS:** Object to the extent it
[16] calls for an attorney client privileged
[17] communication, I direct him not to answer,
[18] so I don't know.
[19] **MR. WAREHAM:** Well, do you want to
[20] confer with him in terms of whether — part
[21] of it is he may not know whether there is
[22] attorney-client privilege.
[23] **MR. MARKS:** Before he answers that
[24] question.
[25]

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W. Kawadler

[1] **MR. LEMONEDES:** I don't think he
[2] should be brought to answer unless we can
[3] understand whether his understanding came
[4] from counsel or not.
[5] **Q:** Did your understanding that the City
[6] Council of New York is an agency come from the
[7] General Counsel of the City Council, from the
[8] legal department of the City Council?
[9] **MR. LEMONEDES:** One second.
[10] **MR. MARKS:** I guess the better
[11] question would be as long as his
[12] understanding came from the attorneys for
[13] the Council, be it the General Counsel or
[14] other attorneys for the Council, it would
[15] be a privileged conversation, it would be
[16] limited to just attorneys from the General
[17] Counsel or the Council.
[18] **MR. WAREHAM:** Say that again.
[19] **MR. MARKS:** I'm saying the Council
[20] has other attorneys besides the General
[21] Counsel's office.
[22] **MR. WAREHAM:** Are they functioning
[23] as attorneys, or are they just people who
[24] are attorneys who have other administrative
[25]

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W. Kawadler

[1] positions?
[2] **Q:** Was the person that you found out —
[3] where you got this theory of the City Council is
[4] an agency from speaking to you as an attorney —
[5] **MR. LEMONEDES:** You have to answer
[6] yes or no.
[7] **Q:** — in the role as an attorney?
[8] **MR. MARKS:** You have to answer the
[9] question.
[10] **MR. LEMONEDES:** You can answer it
[11] yes or no.
[12] **A:** Yes.
[13] **Q:** Who was that person?
[14] **MR. WAREHAM:** That is not
[15] privileged.
[16] **MR. LEMONEDES:** No, who the exact
[17] attorney was, unless it was more than one,
[18] I mean —
[19] **MR. WAREHAM:** The question is which
[20] attorney it is is privileged?
[21] **MR. LEMONEDES:** No, I'm saying your
[22] "Who" implies that there is a single, I'm
[23] suggesting —
[24] **MR. WAREHAM:** Okay. But if it is
[25]

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W. Kawadler

[1] more than one, he'll tell me each who.
[2] **MR. LEMONEDES:** To the degree he can
[3] recall.
[4] **MR. WAREHAM:** Of course.
[5] **Q:** Who was —
[6] **MR. LEMONEDES:** If you can recall
[7] the number of attorneys that you spoke with
[8] about this, and please identify them.
[9] **A:** Elizabeth Fine, Barbara Butler,
[10] Alvin Bragg, Jim Lemonedes.
[11] **Q:** And do you know, do you remember
[12] approximately when that theory was presented to
[13] you, date wise?
[14] **A:** Approximately, you know, middle
[15] June.
[16] **Q:** Would it be —
[17] **A:** Maybe.
[18] **Q:** Would it be after the stated meeting
[19] of June 13th, do you remember?
[20] **A:** I don't remember.
[21] **Q:** But it was approximately around that
[22] time?
[23] **A:** I don't know. I mean it was after
[24] the stated meeting of May 31st at some point.
[25]

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W. Kawadler

[1] **Q:** To your understanding, had a Speaker
[2] of the City Council —
[3] **MR. WAREHAM:** Withdrawn.
[4] **Q:** Prior to the suspension of Ms.
[5] Plummer, had a Speaker of the City Council ever
[6] suspended an individual staff member of an
[7] individual Council member?
[8] **A:** Not that I know of.
[9] **Q:** Prior to the termination of Ms.
[10] Plummer, had a Speaker of the Council ever
[11] terminated the staff member of an individual
[12] Council member?
[13] **A:** Not that I know of.
[14] **Q:** Is it your understanding that none
[15] of the documents that relate to —
[16] **MR. WAREHAM:** Withdrawn.
[17] **Q:** On July 2, 2007, did you submit an
[18] affidavit as part of the Speaker's response to a
[19] lawsuit that Ms. Plummer had filed?
[20] **A:** Yes.
[21] **Q:** And in that affidavit —
[22] **MR. WAREHAM:** And just let me mark
[23] this as Plaintiff's 8.
[24] (Plaintiff's Exhibit 8, affidavit of
[25]

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W. Kawadler

[1] Wayne Kawadler, marked for identification.)
[2] **Q:** You're familiar with this, right?
[3] **A:** Umm-hmm.
[4] **Q:** You said you reviewed it in
[5] preparation for this?
[6] **A:** Umm-hmm.
[7] **Q:** And in it, in paragraph four, I
[8] believe, you stated the conclusion, "None of
[9] these forms", you indicate the forms were that
[10] all new personnel get, they're provided with
[11] certain materials that include Application of
[12] Employment, Employee Fact Sheet, a Receipt of the
[13] Council's Policy on Harassment and
[14] Discrimination, Receipt of the Council's Ethics
[15] Manual, and then you conclude that none of these
[16] forms refer to the Council member's employees
[17] because the point that you're making is the
[18] people hired by individual Council members are
[19] not employees of that Council member, correct,
[20] they're employees of the Council?
[21] **A:** Correct.
[22] **Q:** And are you familiar with the ethics
[23] manual that you refer to in paragraph four,
[24] Council's Ethics Manual, are you familiar with
[25]

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W. Kawadler

[1] that?
[2] **A:** What do you mean am I familiar with
[3] it?
[4] **Q:** You've seen the document?
[5] **A:** Yes.
[6] **Q:** You've read the document? You're
[7] familiar with its contents, you know there is a
[8] policy against harassment and discrimination?
[9] **A:** Correct.
[10] **Q:** And there is a procedure for filing
[11] complaints of harassment and discrimination, are
[12] you familiar with that in the ethics manual?
[13] **A:** I haven't read it for a while but.
[14] **Q:** When you —
[15] **A:** If you have it, I can look at it.
[16] **Q:** Sure.
[17] (Time noted: 2:56 p.m.)
[18] (A brief recess is taken.)
[19] (Time noted: 3:02 p.m.)
[20] (Plaintiff's Exhibit 9, City
[21] Council's Policy Against Employment
[22] Discrimination and Unlawful Harassment
[23] dated June 13, 2006, marked for
[24] identification.)
[25]

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W. Kawadler

[1] **MR. WAREHAM:** He's reviewing the
[2] ethics manual.
[3] **MR. MARKS:** It's actually The City
[4] Council Policy Against Discrimination.
[5] **MR. WAREHAM:** Discrimination.
[6] **MR. MARKS:** Employment
[7] Discrimination and Unlawful Harassment
[8] dated June 13, 2006.
[9] **MR. LEMONEDES:** This is going to be
[10] another exhibit?
[11] **MR. MARKS:** Yes.
[12] **Q:** Are you done?
[13] **A:** Yes.
[14] **Q:** And you've just looked over the New
[15] York City Council Policy Against Employment
[16] Discrimination and Unlawful Harassment, correct?
[17] **A:** Correct.
[18] **Q:** That is one of the documents that
[19] you indicated in your affidavit of July 2nd that
[20] Mrs. Plummer had received, that the new hires
[21] received upon being hired, correct?
[22] **A:** Correct.
[23] **Q:** And that was one of the documents
[24] you indicated, you said, "None of these forms "in
[25]

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W. Kawadler

[1] paragraph four, "None of these forms refer to any
[2] personnel as a Council member's employee",
[3] correct?
[4] **A:** Right.
[5] **Q:** That is paragraph four of your
[6] affidavit?
[7] **A:** Correct.
[8] **Q:** And prior to signing the affidavit
[9] you had reviewed the materials that you included
[10] as exhibits, is that correct, as part of the
[11] affidavit?
[12] **A:** Ask it again, please.
[13] **Q:** I said, prior to signing the
[14] affidavit, your sworn statement, you had reviewed
[15] the materials that you included as exhibits to
[16] that affidavit?
[17] **A:** I didn't review them all directly.
[18] **Q:** But you reviewed them sufficiently
[19] to reach conclusions, the conclusions that were
[20] in the affidavit?
[21] **A:** Correct.
[22] **Q:** Now let me draw your attention to
[23] page five of Plaintiff's 9, the New York City
[24] Council Policy Against Employment Discrimination
[25]

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[1] and Unlawful Harassment, on the top of page
[2] five — I'm sorry, page four, first, under the
[3] heading sub five, "Complaint Review Resolution
[4] and Remedies", there are three subheadings, A, B,
[5] and C, correct?
[6] **A:** Yes.
[7] **Q:** Can you just read into the record,
[8] what is subheading A titled?
[9] **A:** "Unlawful Discrimination Or
[10] Harassment by Employees of Council" — "of the
[11] Council's Central Staff."
[12] **Q:** And B?
[13] **A:** "Discrimination, Harassment By
[14] Employees of a Council Member."
[15] **Q:** And C?
[16] **A:** "Discriminate or" — "Discrimination
[17] Or Harassment By Members of the City Council."
[18] **Q:** So this policy indicates three
[19] different categories of employees, is that
[20] correct?
[21] **A:** Well, it says two are employees and
[22] one are members, so there is three.
[23] **Q:** So there is two categories of
[24] employees?
[25]

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[1] **A:** I don't know if they're categories
[2] or if there they're — I don't know that they're
[3] categories.
[4] **Q:** There is a distinction between
[5] employees, it makes a distinction between
[6] employees of the Council's central staff and
[7] employees of a Council member?
[8] **A:** It — there is a — yes.
[9] **Q:** And that category discrimination,
[10] the category sub B, "Discrimination and
[11] Harassment by Employees of the Council Member"
[12] contradicts your conclusion of paragraph four of
[13] your affidavit, isn't that so, where you stated
[14] that none of these forms refer to any personnel
[15] as a Council member's employee?
[16] **A:** Correct.
[17] **Q:** And in the content of subparagraph
[18] B, "Discrimination and Harassment By Employees of
[19] the Council Member", could you please read that
[20] into the record?
[21] **A:** That paragraph?
[22] **Q:** Yes.
[23] **A:** "The FIC shall promptly investigate
[24] every allegation of discrimination or harassment
[25]

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[1] it receives against an employee of a Council
[2] member where the FIC finds that a complaint does
[3] not constitute discrimination or harassment, the
[4] investigation will be closed, because the members
[5] of the Council employ individuals directly if the
[6] FIC determines that an employee of a member has
[7] violated this policy it will recommend remedial
[8] and disciplinary action to the member and shall
[9] provide notice of such recommendations to the
[10] Speaker. The member will promptly determine what
[11] action to take and will notify the FIC of his or
[12] her decision. If the member fails to take action
[13] to address the discrimination or harassment the
[14] FIC shall refer the matter to the committee on
[15] standards and ethics for further consideration."
[16] **Q:** So according to this procedure, the
[17] FIC, which is the Fairness in?
[18] **MR. MARKS:** Fair Intervention
[19] Committee.
[20] **Q:** — Fair Intervention Committee, does
[21] not have the authority to discipline an employee
[22] of an individual Council member directly, is that
[23] correct?
[24] **MR. MARKS:** Objection to form.
[25]

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[1] **Q:** But you can answer it.
[2] **THE WITNESS:** Can I answer it?
[3] **MR. MARKS:** You can answer it,
[4] sorry.
[5] **A:** Can you repeat the question, please.
[6] (The record is read.)
[7] **A:** Correct.
[8] **Q:** So according to that procedure there
[9] is no precedent for a Speaker to a committee,
[10] much less the Speaker to discipline staff members
[11] of individual Council members?
[12] **MR. MARKS:** Objection to form, but
[13] you can answer.
[14] **A:** The FIC does not have the power
[15] to — to — to provide any corrective measures to
[16] staff at all. The FIC only recommends.
[17] **Q:** But the FIC recognizes that the
[18] employees of the individual Council members,
[19] quote, because the members of the Council employ
[20] individuals directly, that there is a different
[21] procedure for them than for central staff
[22] members, is that correct?
[23] **MR. MARKS:** Objection to form.
[24] You can answer.
[25]

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[1] **A:** There is a different procedure, yes,
[2] that FIC recommends for people who are central
[3] staff versus staff to a committee member.
[4] **Q:** Central staff can be dealt with by
[5] the Speaker directly, correct, under procedure
[6] sub A, the recommendation goes to the Speaker
[7] directly?
[8] **A:** Correct.
[9] **Q:** Because the Speaker is the one
[10] accountable for that staff?
[11] **MR. MARKS:** Objection to form.
[12] **Q:** Under subsection B it goes to the
[13] member who hired that person?
[14] **MR. MARKS:** Objection. Objection to
[15] form. The language says more than what
[16] you're saying, but I don't want to make a
[17] speaking objection.
[18] You can answer.
[19] **Q:** Let me just say, according to
[20] subsection B it is up to the member who hired
[21] that staff member to take whatever action that
[22] member deems appropriate?
[23] **MR. MARKS:** Objection to form.
[24] **THE WITNESS:** Answer?
[25]

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[1] **MR. MARKS:** You can answer.
[2] **A:** The member — ask your question
[3] again.
[4] (The record is read.)
[5] **A:** Well, I'm not sure if it's
[6] appropriate, a member — it says the member will
[7] promptly deem the action to take.
[8] **Q:** But it's the individual Council
[9] member that makes that determination, not the
[10] Speaker?
[11] **A:** Although if the member doesn't take
[12] action appropriately then it refers to the
[13] standards and ethics.
[14] **Q:** Right. But it is not the Speaker
[15] that makes that determination on the staff member
[16] of an individual Council?
[17] **A:** It's the member.
[18] **Q:** Do you know, to your knowledge, did
[19] the Speaker file any complaint against Ms.
[20] Plummer under this policy or under the ethics
[21] manual?
[22] **A:** I don't believe under this policy.
[23] **Q:** Did she file one under the ethics
[24] manual, do you know?
[25]

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[1] **MR. WAREHAM:** Let the record
[2] indicate that Mr. Kawadler is reviewing his
[3] affidavit.
[4] **A:** No, she did not.
[5] **Q:** Do you know whether Council Member
[6] Comrie filed a complaint against Mrs. Plummer for
[7] the events of May 30, 2007 under either of those
[8] procedures?
[9] **A:** I don't know.
[10] **Q:** You said that the theory you were
[11] presented with was that the City Council is an
[12] agency of the City of New York?
[13] **A:** Correct.
[14] **Q:** Are you aware of any other City
[15] agencies that implement laws, that pass laws for
[16] the City of New York?
[17] **MR. MARKS:** Objection to form.
[18] **THE WITNESS:** Am I to answer?
[19] **MR. MARKS:** You can answer.
[20] **MR. LEMONEDES:** You can answer.
[21] **A:** No, as an agency that's its job is
[22] to pass laws for the City.
[23] **Q:** Section 21 of the Charter that you
[24] read states that as an agency, if we refer back
[25]

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[1] to the Charter, can you look at section 21, does
[2] it say that as an agency its job is to pass laws?
[3] **A:** It says that the Council shall be
[4] the legislative body of the City.
[5] **Q:** Is there any language at all in that
[6] paragraph that indicates that it's an agency of
[7] the City of New York?
[8] **A:** No.
[9] **Q:** Are you aware of any New York City
[10] agency whose members are elected by the general
[11] public, by the voting public?
[12] **A:** Oh, I would argue that the City
[13] clerk — well, he's not an elected office, I
[14] would argue that borough presidents, each
[15] individual borough president are elected by the
[16] public and run their — their office as an
[17] agency. And the comptroller.
[18] **Q:** They're elected to run an agency,
[19] right, the agency exists, they're elected to run
[20] it?
[21] **A:** You asked me who is elected.
[22] **Q:** Right, but their membership is
[23] composed of elected members?
[24] **MR. MARKS:** Objection to form.
[25]

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[1] You may answer.
[2] Members are appointed.
[3] **Q:** In paragraph 11 of your affidavit,
[4] you state that "As a result of Ms. Plummer's
[5] disruptive conduct during the May 30, 2007
[6] Council Meeting, and additional information
[7] concerning threats she made to assassinate
[8] Council Member Leroy Comrie, the Speaker of the
[9] Council of the City of New York, Christine C.
[10] Quinn, met with the Chief of Staff, Mr. Charles
[11] Meara, the Director of Security for the Council,
[12] Mr. Carl D'Alba, other senior staff and numerous
[13] members of the Council to assess the disruption
[14] caused by Ms. Plummer's outbursts and threats."
[15] Can you indicate who were the other
[16] senior staff members, those first, who were the
[17] other senior staff members?
[18] **A:** There were various meetings, but
[19] there were Ramon Martinez, First Deputy Chief of
[20] Staff, Maura Keaney, Deputy Chief of Staff,
[21] Rodney Capel, Deputy Chief of Staff.
[22] **Q:** Did you attend those meetings?
[23] **A:** Some of them.
[24] **Q:** Which members of the Council did she
[25]

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[1] meet with?
[2] **A:** I don't know. I mean I didn't
[3] attend meetings of the Council that — I know
[4] that she met with the leadership team.
[5] **Q:** The leadership team of?
[6] **A:** Of the — the leadership a team
[7] which is the members, the people who are on the
[8] leadership team for the Council, so it would be
[9] like Council Member Comrie, Council Member
[10] Fidler, Council Member Dickens, I'm not recalling
[11] all of the people who are on that, Rivera.
[12] **Q:** Do you know if she met With Counsel
[13] Member Barron?
[14] **A:** I don't know. He's not on
[15] leadership team.
[16] **Q:** Ms. Plummer is his employer,
[17] correct?
[18] **A:** Ms. Plummer worked for him, but she
[19] worked for the Council, the New York City
[20] Council.
[21] **Q:** So you're saying —
[22] **A:** The ID —
[23] **Q:** — you don't know whether she met
[24] with Council Member Barron?
[25]

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[1] **A:** The ID cards for all staff say New
[2] York City Council.
[3] **Q:** When Ms. Plummer was hired did
[4] Council Member Barron have to submit a form for
[5] her hire?
[6] **A:** Yes.
[7] **Q:** And it's called An Appointment
[8] Request Form?
[9] **A:** Correct.
[10] **Q:** And who signs that?
[11] **A:** The Council member.
[12] **Q:** And who approves the hiring, is it
[13] the Speaker?
[14] **A:** The speaker's staff.
[15] **Q:** So the Speaker's staff has the final
[16] say so over whether a —
[17] **A:** And therefore the Speaker, yes.
[18] **Q:** So you're saying that once an
[19] Appointment Request Form comes in, the Speaker
[20] staff can veto the hiring of a person that an
[21] individual Council member wants to hire?
[22] **A:** Correct.
[23] **Q:** Has that ever happened?
[24] **A:** I don't know.
[25]

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[1] **Q:** And where would there be a record of
[2] those people who had not been hired whose
[3] requests for hiring had been denied by the
[4] Speaker's staff?
[5] **A:** We would probably have it at our
[6] offices.
[7] **Q:** And once the hiring has been
[8] approved, who signs this sheet, who signs the
[9] sheet approving the hire of a staff member of an
[10] individual Council member, is it the Speaker?
[11] **A:** No.
[12] **Q:** Who signs that? Who signs the
[13] approval?
[14] **A:** The member signs the — signs off
[15] and once the member —
[16] **Q:** Well you said somebody has to
[17] approve it, once the —
[18] **A:** I mean —
[19] **Q:** — Council member makes a request
[20] for appointment, somebody can deny it and
[21] somebody has to approve it?
[22] **A:** Right, if there — if the member —
[23] if the person doesn't have a — have a proper
[24] paperwork, or if there are things missing, then
[25]

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[1] it would be sent back to the member.
[2] **Q:** So you're saying that the basis for
[3] the Council member staff denying that is that the
[4] paperwork is incomplete?
[5] **MR. MARKS:** Objection to form.
[6] You can answer.
[7] **A:** Or if they're not — unless they're
[8] not eligible.
[9] **Q:** What are the grounds of eligibility?
[10] What determines ineligibility?
[11] **A:** You have to have proper
[12] identification.
[13] **Q:** So what you're saying is that the
[14] Council, the Speaker's staff can reject an
[15] application for technical reasons?
[16] **MR. MARKS:** Objection to form.
[17] You can answer.
[18] **A:** Well, they can — they can reject a
[19] person based on the law, I mean the law doesn't
[20] allow us to hire somebody who doesn't have work
[21] papers, proper work papers.
[22] **Q:** That is a technical reason?
[23] **A:** That is not —
[24] **Q:** The Speaker's staff cannot reject an
[25]

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[1] application because they don't like the politics
[2] of the person being hired, the political beliefs
[3] of the person being hired?
[4] **A:** Correct, that would be illegal.
[5] **Q:** They cannot reject it because they
[6] do not like the race of the person being hired?
[7] **A:** That would be illegal.
[8] **Q:** They cannot reject it because they
[9] do not like the sex of the person being hired?
[10] **A:** Again, that would be illegal.
[11] **Q:** So assuming that the paperwork is in
[12] order, who approves the application that for the
[13] hiring of an individual Council members staff,
[14] who signs off on it?
[15] **A:** Physically signs off on it?
[16] **Q:** Yes. Physically signs off on it.
[17] Just like somebody physically signed off on the
[18] termination of Viola Plummer, who signs, who
[19] signed the approval of her hire? Was it the
[20] Speaker?
[21] **A:** No.
[22] **Q:** Who was it?
[23] **A:** The Council member.
[24] **Q:** The Council member.
[25]

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[1] So it is the Council member who
[2] approves the hire?
[3] **A:** It is the Council member who
[4] recommends the hire.
[5] **Q:** And approves it so that that person
[6] can be put on the payroll and start getting paid?
[7] **A:** Well, it's the Council member who
[8] signs the paper, it's the Council member who
[9] recommends the hire.
[10] **Q:** So we're very clear, it is not
[11] Christine Quinn, right? Christine Quinn doesn't
[12] sign off on that, is that right?
[13] **A:** That's correct.
[14] **Q:** Thank you.
[15] **A:** But it should also be said that
[16] Christine Quinn doesn't sign off on — doesn't
[17] sign the paper for most hires for the City
[18] Council.
[19] **MR. WAREHAM:** I'll ask that that be
[20] stricken as unresponsive. I didn't ask
[21] that.
[22] **Q:** Do you know Maria Alvarado?
[23] **A:** Yes.
[24] **Q:** And who is she?
[25]

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[1] **W. Kawadler**
[2] **A:** Press secretary to the Speaker.
[3] **Q:** Are you aware of a memo she sent to
[4] the Speaker on June the 1st that according to
[5] Charles Meara, only Charles Barron has the
[6] authority to fire Viola Plummer?
[7] **MR. MARKS:** Objection to the form.
[8] **THE WITNESS:** Answer it?
[9] **MR. MARKS:** You can answer it.
[10] **A:** Am I aware of —
[11] **Q:** Were you aware of a memo that Maria
[12] Alderado sent to Christine Quinn on June 1, 2007
[13] that according to Chuck Meara, only Charles
[14] Barron had the authority to fire Viola Plummer?
[15] **A:** No.
[16] **Q:** If I told you that such a memo
[17] existed, would you —
[18] **MR. WAREHAM:** Withdrawn.
[19] **Q:** Were you aware that the Speaker had
[20] a question when —
[21] **MR. WAREHAM:** Withdrawn.
[22] **Q:** Are you aware that when this
[23] incident first happened, and people like Leroy
[24] Comrie asked for Ms. Plummer to be terminated,
[25] that the Speaker had a question around whether

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[1] **W. Kawadler**
[2] she had the authority to do that?
[3] **MR. MARKS:** Objection to the form.
[4] You can answer.
[5] **A:** Yes.
[6] **Q:** Did you have any discussions with
[7] the Speaker about her authority to be able to
[8] fire Viola Plummer?
[9] **A:** With counsel.
[10] **Q:** You had a discussion with counsel,
[11] or you had a discussion with the Speaker?
[12] **A:** With the Council while the Speaker
[13] was there.
[14] **Q:** Did you have any discussions with
[15] the Speaker without counsel present around her
[16] authority to be able to fire Viola Plummer?
[17] **A:** You mean just with the Speaker
[18] alone?
[19] **Q:** Yes, with the Speaker and no
[20] attorney present?
[21] **A:** I'm sure we had many conversations
[22] with various — there were meetings with various,
[23] there were a lot of meetings.
[24] **Q:** And was the Speaker's initial
[25] understanding that she did not have the authority

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[1] **W. Kawadler**
[2] to fire Viola Plummer?
[3] **MR. MARKS:** Objection to form.
[4] You can answer.
[5] **A:** I don't know what her understanding
[6] was.
[7] **Q:** Did she ever say to you, you know
[8] what, I don't have the authority to fire Viola
[9] Plummer?
[10] **A:** Not that I recall.
[11] **Q:** Was it said to her in your presence
[12] outside of counsel that she does not have the
[13] authority to fire Viola Plummer?
[14] **A:** Without counsel present?
[15] **Q:** Yes.
[16] **A:** I mean there were discussions —
[17] there were discussions about whether or not she
[18] had the power to do that, yes.
[19] **Q:** And what was the discussion, yes or
[20] no? I mean what was the conclusion of the
[21] discussion?
[22] **MR. MARKS:** Objection to form.
[23] You can answer.
[24] **A:** The conclusion is that she thought
[25] she did have the power, and it happened.

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[1] **W. Kawadler**
[2] **Q:** When was that discussion, and who
[3] was present?
[4] **MR. MARKS:** Objection to form.
[5] You can answer.
[6] **A:** There were many discussions about
[7] this issue.
[8] **Q:** Let's start with the first one you
[9] can remember in terms of when it was and who was
[10] present?
[11] **A:** That she had the power?
[12] **Q:** Yes.
[13] **A:** With counsel?
[14] **Q:** There was a discussion with counsel.
[15] Let's talk about the ones where counsel was not
[16] present, that you can remember?
[17] **A:** When was that?
[18] **Q:** Yes. When was it, and with whom?
[19] **A:** That she has the power to fire Viola
[20] Plummer?
[21] **Q:** Yes.
[22] **A:** It was after our discussions with
[23] the General Counsel's office.
[24] **Q:** Can you give me a date?
[25] **A:** I can't give you a specific date,

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1
2 there were a lot of the meetings then, I don't
3 know. I mean it was sometime — it was sometime
4 in June.

5 **Q:** Do you know Sandra Mullin?

6 **A:** Yes.

7 **Q:** And who is she?

8 **A:** She worked at the Council.

9 **Q:** Do you know what her position is?

10 **A:** She was communications director.

11 **Q:** Did you attend a press conference
12 that the Speaker had on June 5, 2007 where she
13 discussed the issue of Viola Plummer?

14 **A:** I don't know. I could have. There
15 are a lot of press conferences.

16 **MR. WAREHAM:** Let me mark this
17 Plaintiff's 10.

18 (Plaintiff's Exhibit 10, transcript
19 of a press conference on June 5, 2007
20 bearing Bates numbers D 0782 and D 0783,
21 marked for identification.)

22 **MR. WAREHAM:** This is Bates stamped
23 D 0782 and 0783, this is a transcript of a
24 press conference on June 5, 2007.

25 **A:** Is there a particular paragraph I'm

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1 reading?

2 **Q:** The first paragraph where it says
3 CQ, the second half?

4 **A:** On 0782?

5 **Q:** 0782, yes.

6 **A:** Okay. Okay.

7 **Q:** You've indicated that the Speaker's
8 position is that Ms. Plummer doesn't work for
9 Councilman Barron, she works for the Council,
10 right?

11 **A:** I don't know if I've indicated that.

12 **Q:** Is that the Speaker's position?

13 **A:** I don't know — I don't know what
14 her position is.

15 **Q:** You said that the Speaker believes
16 that she has the authority to terminate Ms.
17 Plummer, because she was an employee of the City
18 Council?

19 **A:** I would have to read back what I
20 said. I don't know if I said the Speaker did
21 or —

22 **Q:** Is that your view of the Speaker's
23 position?

24 **MR. MARKS:** Objection to form.

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1 **Q:** Let me ask you another question.

2 Mrs. Plummer was terminated at the behest of the
3 Speaker, isn't that correct?

4 **MR. MARKS:** Objection to form.

5 You can answer.

6 **MR. LEMONEDES:** You can answer it if
7 you can.

8 **A:** Mrs. Plummer was terminated through
9 a letter from the Speaker, yes.

10 **Q:** What is your academic background,
11 did you get a college degree?

12 **A:** Yes.

13 **Q:** From?

14 **A:** I have an undergraduate degree from
15 Northeastern University.

16 **Q:** In?

17 **A:** Business marketing.

18 **Q:** Do you have a graduate degree?

19 **A:** Yes.

20 **Q:** In?

21 **A:** Public health.

22 **Q:** Mrs. Plummer was terminated from her
23 job as Chief of Staff for Charles Barron,
24 correct?

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1 **A:** Correct.

2 **Q:** This was done at the direction of
3 the Speaker of the City Council, correct?

4 **A:** Say that again.

5 **Q:** She was terminated at the direction
6 through a letter from Chuck Meara at the
7 direction of the Speaker of the City Council?

8 **A:** Correct, correct.

9 **Q:** The Speaker of the City Council's
10 position was that she had the authority to fire
11 Viola Plummer?

12 **A:** Correct.

13 **Q:** In this press conference, on June 5,
14 2007, in response to a question reporter one,
15 last week at the City Counsel meeting the Chief
16 of Staff of Council Charles Barron made a death
17 threat against another Council member outside
18 City Hall, what was your reaction? Is she going
19 to remain on the City payroll? Are you consult
20 ing lawyers to find out what the Council can do?
21 What is happening on that front? That was the
22 question.

23 Her response, I'm not going to read
24 the entire response, it's included in it, but at

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[1] one point near the end of that paragraph she
[2] says, "As it relates to Ms. Plummer we're
[3] researching what our legal options are as a
[4] Speaker and as an institution to take action. We
[5] want to make sure that we understand the
[6] parameters of what our options are since she does
[7] not work for me, she works for a separate, you
[8] know, an independent Council member. I hope to
[9] get those fine legal interpretations from my
[10] General Counsel's office soon and then I will
[11] discuss the matter with my leadership team and
[12] the rest of the Council."

[14] Do you know when the Council
[15] Speaker's position changed around who Viola
[16] Plummer worked for?

[17] **MR. MARKS:** Objection to form.
[18] You can answer.

[19] **A:** Well sometime after this press
[20] conference when we got our final legal
[21] interpretation from the General Counsel's office.

[22] **Q:** Are you familiar with an employment
[23] or unemployment form called a Termination Form?

[24] **A:** I know we have one, yes.

[25] **MR. WAREHAM:** Mark this as

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[1] Plaintiff's 11.
[2] (Plaintiff's Exhibit 11, document
[3] bearing Bates number D 0944, marked for
[4] identification.)

[6] **Q:** Have you looked at it?

[7] **A:** Yes.

[8] **Q:** This is a form that is submitted
[9] when an individual staff member, an individual
[10] Council member wants to terminate an individual
[11] member of his or her staff, correct?

[12] **A:** Correct.

[13] **Q:** And it is that Council member who
[14] submits it, correct?

[15] **A:** Correct.

[16] **Q:** And it is the Council member who
[17] signs off on it, right?

[18] **A:** Correct.

[19] **Q:** Does the Speaker sign off on these?
[20] Does the Speaker sign off when an individual
[21] Council member wants to terminate an individual
[22] member of his or her staff?

[23] **A:** The Speaker does not sign off on it
[24] if the Council member wants to terminate an
[25] employee.

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[1] **Q:** Who signed off on Ms. Plummer's
[2] termination, was it Council Member Barron?

[4] **A:** The Speaker.

[5] **Q:** In paragraph 11 of your affidavit,
[6] you say in the middle of the paragraph, "In order
[7] to maintain the integrity of the Council and
[8] ensure the efficient operation of the Council,
[9] safeguard the relationships between Council
[10] members in conducting their business and the
[11] necessary need to address any threat to a Council
[12] member, Speaker Quinn, relying on her inherent
[13] powers as Speaker directed that the Chief of
[14] Staff of the Council transmit a letter of
[15] termination to Mrs. Plummer."

[16] Where do her inherent powers as
[17] Speaker come from?

[18] **A:** As the head of the City agency, her
[19] inherent — her inherent powers come from the
[20] fact that she's elected by the members to be the
[21] head of the agency.

[22] **Q:** And your testimony is that when the
[23] other 51, 52 members of the Council, 50 members
[24] of the Council selected her as Speaker, that they
[25] were selecting her as the person who had control

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[1] over the personnel decisions of their staff?
[2] **MR. MARKS:** Objection to form.

[4] You can answer.

[5] **A:** Can you repeat that?

[6] (The record is read.)

[7] **A:** My testimony is that she was elected
[8] as the head of the City Council as an agency
[9] whose — and her job, part of her job was to —
[10] is to ensure the integrity of the Council and the
[11] efficient operation of the Council, and to
[12] safeguard relationships between Council members
[13] in conducting their business and the necessary
[14] need to address any threat to a Council member.

[15] **Q:** Did you develop this concept of the
[16] inherent powers as Speaker?

[17] **A:** Did I —

[18] **MR. MARKS:** Objection.

[19] **A:** Did I develop it?

[20] **MR. MARKS:** Objection to form.

[21] **Q:** That was your term? Where did that
[22] term come from, inherent powers of the Speaker?

[23] **A:** I don't — probably the — our
[24] General Counsel's office.

[25] **Q:** This is your affidavit, right? I

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[1] mean you're swearing to this?
[2] **A:** Yes.
[3] **Q:** Where did that term come from?
[4] **A:** I don't know where that term came
[5] from.
[6] **Q:** But your understanding is that it
[7] means that — state once again what your
[8] understanding of inherent powers as Speaker
[9] means?
[10] **A:** It's her inherent power to run the
[11] Council in a professional manner and to protect
[12] the institution as a professional institution.
[13] **Q:** So it's basically giving her carte
[14] blanche to do whatever she wants, as long as the
[15] rational is those things you just said,
[16] safeguarding the relationship and maintain the
[17] integrity?
[18] **MR. MARKS:** Objection to form.
[19] You can answer.
[20] **A:** It gives her power to ensure that
[21] the agency is run, and that the Council is run
[22] with integrity and with professionalism.
[23] **Q:** Who makes that decision, the
[24] Speaker?
[25]

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[1] **A:** Yes.
[2] **Q:** These powers are undefined any place
[3] in any — can you —
[4] **A:** I — I —
[5] **Q:** — point to any —
[6] **A:** I am not a lawyer.
[7] **Q:** — situation where this is set out?
[8] **A:** We can look at the full Charter and
[9] find it, but I'm not a lawyer.
[10] **Q:** Will you look through the full
[11] Charter and then indicate to me where that is?
[12] **MR. MARKS:** You're asking him to
[13] look through the entire New York City
[14] Charter? Actually, I don't think that is a
[15] proper question in a deposition, generally
[16] the attorney can't instruct the witness —
[17] **MR. WAREHAM:** That is true.
[18] **MR. MARKS:** We got a Charter
[19] section, don't worry.
[20] **MR. WAREHAM:** Can we take a
[21] two-minute break.
[22] (Time noted: 3:52 p.m.)
[23] (A brief recess is taken.)
[24] (Time noted: 3:56 p.m.)
[25]

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[1] **MR. WAREHAM:** I'm finished. Do you
[2] have any questions?
[3] **MR. MARKS:** I don't have any
[4] questions.
[5] (Time noted: 3:56 p.m.)
[6]
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[1] I, the witness herein, having read
[2] the foregoing testimony, do hereby certify
[3] it to be a true and correct transcript,
[4] subject to the corrections, if any, shown
[5] on the attached page.
[6]
[7]
[8]
[9]
[10]

WAYNE KAWADLER

[11]
[12]
[13]
[14] Subscribed and sworn to
[15] before me this ____ day
[16] of _____ 2007.
[17]
[18]
[19]
[20]
[21]
[22]
[23]
[24]
[25]

[1] L. Comrie
 [2] CERTIFICATE
 [3] STATE OF NEW YORK)
 [4]
 [5] COUNTY OF NEW YORK)
 [6] I, KAREN PERLMAN, a Shorthand Reporter and
 [7] Notary Public within and for the State of New
 [8] York, do hereby certify:
 [9] That WAYNE KAWADLER, the witness whose
 [10] deposition is hereinbefore set forth, was duly
 [11] sworn by me and that such deposition is a true
 [12] record of the testimony given by such witness.
 [13] I further certify that I am not related to
 [14] any of the parties to this action by blood or
 [15] marriage, and that I am in no way interested in
 [16] the outcome of this matter.
 [17] IN WITNESS WHEREOF, I have hereunto set my
 [18] hand this 20th day of August, 2007.
 [19]
 [20]
 [21]
 [22]
 [23]
 [24] KAREN PERLMAN
 [25]

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